

Message Text

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PAGE 01 USUN N 00710 01 OF 02 020012Z
ACTION IO-14

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TO SECSTATE WASHDC IMMEDIATE 9793

C O N F I D E N T I A L SECTION 01 OF 02 USUN NEW YORK 00710

E. O. 11652: GDS
TAGS: EGEN, UN, ECOSOC, EINV, SF
SUBJECT: UN WORKING GROUP ON CORRUPT PRACTICES

1. SUMMARY: FOREIGN INVESTMENT IN SOUTH AFRICA WILL BE AN IMPORTANT TOPIC OF DISCUSSION DURING THE MARCH 6-10 MEETING ON CORRUPT PRACTICES. THIS ISSUE IS DEALT WITH IN MANY FORA OF THE UN SYSTEM, AND TREATMENT OF THE PROBLEM WITHIN THE CONTEXT OF THE CORRUPT PRACTICES MEETING WILL BE ONLY ONE PART OF A WELL-DEVELOPED AFRICAN STRATEGY TO PUT PRESSURE ON THE WEST, PARTICULARLY THE WESTERN FIVE MEMBERS OF THE SECURITY COUNCIL. THE FOLLOWING REVIEW OF AFRICAN STRATEGY AND INITIATIVES IN OTHER UN FORA IS MEANT TO PROVIDE BACKGROUND ON THE SUBJECT IN LIGHT OF UPCOMING DISCUSSIONS ON CORRUPT PRACTICES. END SUMMARY.

2. AFRICANS WOULD LIKE TO SEE PROVISIONS INCLUDED IN THE AGREEMENT WHICH WOULD PROHIBIT PAYMENTS OF ROYALTIES AND TAXES TO GOVERNMENTS OF ILLEGAL REGIMES IN SOUTHERN AFRICA. THEY HAVE CONTINUED TO PRESS FOR THIS STRONGLY, AND IT WILL BE RECALLED THAT THE DISTINCTION BETWEEN ILLICIT PAYMENTS AND CORRUPT PRACTICES SUPPOSEDLY DEALS WITH THE ISSUE OF CORPORATE PAYMENTS IN THE FORM OF TAXES AND ROYALTIES TO
CONFIDENTIAL

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PAGE 02 USUN N 00710 01 OF 02 020012Z

GOVERNMENTS (RATHER THAN THE MORE SPECIFIC ISSUE OF BRIB-ERY). AN IMPORTANT FACTOR IN THE DISCUSSION WILL BE THE PRE-EMINENCE OF THE SECURITY COUNCIL AS THE PRINCIPAL FORUM FOR THIS DEBATE AND THE FACT THAT DISCUSSIONS ARE BEING CONDUCTED IN OTHER BODIES OF THE UN AS WELL.

3. THE COMMITTEE AGAINST APARTHEID MEETS VERY OFTEN (SOME-

TIMES ONCE OR TWICE A WEEK) UNDER THE CHAIRMANSHIP OF NIGERIAN AMBASSADOR LESLIE HARRIMAN. IT AND THE CENTRE AGAINST APARTHEID (THE SECRETARIAT BACK-UP TO THE COMMITTEE) SERVE A LARGELY RHETORICAL FUNCTION, HOLDING HEARINGS WHICH PROVIDE A FORUM FOR INDEPENDENT PROFESSIONALS (RESEARCHERS, PROFESSORS, WRITERS, ETC.) TO VOICE OPINIONS ON SOUTH AFRICA. WESTERN INVESTMENT IN SOUTH AFRICA IS OFTEN DISCUSSED (AND CRITICIZED). FINDINGS REACHED BY THE COMMITTEE ARE NOT BINDING, BUT EFFORTS OF THE COMMITTEE AND THE CENTRE REGARDING ECONOMIC INVESTMENT IN SOUTH AFRICA OFTEN SERVE AS THE BASIS FOR SUBSEQUENT GENERAL ASSEMBLY OR SECURITY COUNCIL RESOLUTIONS ON THIS SUBJECT.

4. THE APARTHEID ISSUE AND ITS ECONOMIC COMPONENT HAVE BEEN A PRIMARY TOPIC FOR THE UNGA FOR YEARS. TRADITIONALLY, THE GENERAL ASSEMBLY EACH FALL PASSES A DOZEN OR SO RESOLUTIONS CONDEMNING THE SOUTH AFRICAN GOVERNMENT AND ITS SUPPORTERS. THE ACCOMPANYING DEBATES ARE UNIFORMLY CRITICAL OF WESTERN ECONOMIC SUPPORT FOR SOUTH AFRICA. ONE OF THESE TRADITIONAL RESOLUTIONS ADOPTED BY THE GENERAL ASSEMBLY EACH YEAR HAS DEALT WITH ECONOMIC ISSUES, SOMETIMES CALLING FOR A COMPLETE QUARANTINE, BUT IN 1977 THE LANGUAGE WAS MODERATED TO CALL ONLY FOR CESSATION OF NEW INVESTMENT. GENERAL ASSEMBLY RESOLUTIONS, OF COURSE, ARE NOT BINDING ON MEMBER STATES, BUT THEY ARE, AND ARE USED AS, A SIGNIFICANT FORM OF PRESSURE ON SOUTH AFRICA'S

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PAGE 03 USUN N 00710 01 OF 02 020012Z

MAJOR ECONOMIC PARTNERS.

5. THE SECURITY COUNCIL IS THE PRINCIPAL ARENA IN WHICH SOUTH AFRICA INVESTMENT ISSUES ARE DISCUSSED. THERE IS A RESOLUTION WHICH WAS FORMALLY TABLED IN JANUARY WHICH WOULD END ALL NEW INVESTMENT IN SOUTH AFRICA. THE RESOLUTION AWAITS ACTION. HOWEVER, BEFORE ASKING THAT THE RESOLUTION BE ACTED ON, THE AFRICAN MEMBERS OF THE SECURITY COUNCIL (NIGERIA, GABON, MAURITIUS), BY TRADITION, WILL TAKE THEIR REQUEST BEFORE THE AFRICAN GROUP FOR APPROVAL. IT IS UNLIKELY THAT THE AFRICAN GROUP WOULD SUPPORT A CALL FOR ACTION ON THE RESOLUTION UNLESS THEY BELIEVE THERE IS A CHANCE FOR WESTERN CONSENT. HOWEVER, THIS HOLDING PATTERN COULD VERY WELL CHANGE IF FUELLED BY ANY MORE INFLAMMATORY BAD NEWS FROM SOUTH AFRICA SUCH AS THE FALL BANNINGS OR THE BIKO DEATH. THE FACT THAT THE INVESTMENT ISSUE WAS "UNDER CONSIDERATION IN OTHER UN FORA," NAMELY THE SECURITY COUNCIL, PROVIDED AN EXCUSE FOR THE WORKING GROUP TO FORMULATE A CODE OF CONDUCT FOR TRANSNATIONAL CORPORATIONS TO PASS OVER IT DURING THAT EXERCISE, BUT IT IS VERY UNLIKELY THAT WE WILL BE SO LUCKY IN THE ILLICIT PAYMENTS DISCUSSIONS SCHEDULED FOR MARCH 6-

10.

6. ANOTHER FACTOR IN THE TIMING OF POSSIBLE SECURITY COUNCIL ACTION ON SOUTH AFRICA IS THE POTENTIAL USE OF LEVYING ECONOMIC SANCTIONS AS A BARGAINING CHIP IN RHODESIA AND NAMIBIA NEGOTIATIONS. THUS, ACTION ON CURBING FOREIGN INVESTMENT COULD BE TAKEN NOT JUST BECAUSE OF WESTERN OPPOSITION TO APARTHEID BUT ALSO AS A POSSIBLE MEANS OF LEVERAGE IN NEGOTIATIONS ON RHODESIA AND NAMIBIA. ONCE USED ON THE APARTHEID ISSUE, THE LEVERAGE COULD THEN BE LOST FOR THESE OTHER POTENTIAL PURPOSES.

7. THE MAIN UN DELEGATIONS AT WORK ON INVESTMENT IN SOUTH AFRICA ARE THE AFRICAN MEMBERS OF THE SECURITY COUNCIL --
CONFIDENTIAL

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PAGE 04 USUN N 00710 01 OF 02 020012Z

NIGERIA, GABON, AND MAURITIUS; THE CHAIRMAN OF THE COMMITTEE OF 24 (DECOLONIZATION), TANZANIA; THE HEAD OF THE OAU,

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PAGE 01 USUN N 00710 02 OF 02 020008Z
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C O N F I D E N T I A L SECTION 02 OF 02 USUN NEW YORK 00710

GABON; AND THE CHAIRMAN OF THE COUNCIL ON NAMIBIA, ZAMBIA. ANY FAR-REACHING DECISIONS OR PROPOSALS ON THE SUBJECT WOULD ALMOST CERTAINLY BE BROUGHT UP WITHIN THE AFRICAN GROUP AS A WHOLE.

8. THE WESTERN FIVE ARE CONSULTED FREQUENTLY, AND OUR

VIEWS ARE CERTAINLY WELL-KNOWN IN THE AFRICAN GROUP. THE AFRICAN LIBERATION MOVEMENTS WHO HAVE OFFICES IN NEW YORK, THE AFRICAN NATIONAL CONGRESS AND THE PAN-AFRICAN CONGRESS, APPLY CONSTANT PRESSURE ON THE AFRICAN MEMBER STATES.

9. ACTION ON INVESTMENT IN SOUTH AFRICA IN UN FORA OTHER THAN THE SECURITY COUNCIL CAN BE VIEWED PRINCIPALLY AS AN ATTEMPT TO INCREASE WORLD AWARENESS OF APARTHEID AND OF THE CONNECTION BETWEEN FOREIGN INVESTMENT AND THE SYSTEM OF APARTHEID. IT IS ALSO AN ATTEMPT TO PAVE THE WAY FOR CONSENSUS ADOPTION OF RESOLUTIONS IN THE SECURITY COUNCIL WHICH ARE LEGALLY BINDING UNDER INTERNATIONAL LAW. AFRICAN STATES SEE THE ARMS EMBARGO ADOPTED IN THE FALL AS A FIRST STEP TOWARDS THEIR ULTIMATE GOAL OF TOTAL QUARANTINE OF SOUTH AFRICA. THEY VIEW AN END TO INVESTMENT INCENTIVES (TAX CREDITS AND EXPORT/IMPORT GUARANTEES) AS A SECOND STEP AND AN END TO NEW INVESTMENT AS A THIRD, ULTIMATELY LEADING
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PAGE 02 USUN N 00710 02 OF 02 020008Z

TO TOTAL ECONOMIC SANCTIONS. THESE INITIATIVES WILL BE PURSUED THROUGHOUT THE UN SYSTEM, BUT ALWAYS WITH A VIEW TOWARDS BRINGING FINAL DECISIONS TO THE SECURITY COUNCIL, WHERE ACTION HAS LEGAL IMPACT. DISCUSSION OF THE ISSUE IN THE ILLICIT PAYMENTS GROUP, OR IN THE COMMISSION FOR TRANS-NATIONAL CORPORATIONS IN MAY, SERVES THE FUNCTION OF APPLYING ADDITIONAL PRESSURE ON THE WESTERN FIVE MEMBERS OF THE SECURITY COUNCIL WITH A VIEW TOWARD BREAKING DOWN THEIR RESISTANCE TO SECURITY COUNCIL RESOLUTIONS. YOUNG

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